

Monday, May 1, 2006

Via Electronic Filing and E-Mail

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Chief, Disability Rights Office
Federal Communications Commission
445 12th Street, S.W.
Washington DC 20554

Monica Desai
Chief, Consumer & Government Affairs Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington DC 20554

Re: Telecommunication Issues of Concern

Dear Ms. Desai and Mr. Chandler:

As members of the Interstate TRS Fund Advisory Council and representatives of the Deaf and Hard of Hearing Action Network (DHHCAN), we would like to discuss several issues regarding the rates and regulations affecting the various relay services.

Former Speaker of the House Tip O'Neill once said, "All politics is local". The framers of the US Constitution believed that the people in the states, counties, and cities, rather than the federal Government was better positioned to make local decisions. With regard to **telecommunication** relay services, the Deaf and Hard of Hearing members of the American community have a better understanding of their relay need, and more so than the providers and the state regulatory authorities.

Thomas Jefferson stated in a letter in 1787 that the way to prevent despotism "is to give people full information of their affairs through the channel of public papers".

It is in this spirit as representatives of users of the various relay services, we wish to express our concerns about some of the decisions that are made and potential impact on the quality of the various relay services.

The topics are:

- Interoperability of the videophones (VP) and those being distributed by various VRS Providers;
- Use of Deaf interpreters;
- Weighted average vs. average operating;
- Sharing with the Interstate TRS Fund Advisory Council operating costs and percent market share of the different providers;

- The value of The Interstate TRS Fund Advisory Council;
- The need for supporting and continuing existing interpreter training programs;
- The need to establish uniform interpreting standards.
- Outreach of the TRS/VRS

1. **Interoperability**: We are pleased to see that the Interoperability issue is placed on the FCC Open Commission Meeting for Wednesday, May 3, 2006. We ask that VP users be able to contact each other via the NANP rather than the IP addresses between different VPs. The NANP process will be closer to functional equivalency of access to the telephone network where an individual can easily reach another individual via a telephone number and not an IP address, which can change from day to day.
2. **Use of Deaf Interpreters**: Qualified or Certified Deaf Interpreters should be considered a reimbursable operating cost just as qualified hearing interpreters are already recognized as a reimbursable cost as a service of providing efficient access to the telecommunications network. It doesn't matter whether the interpreter is deaf or hearing as long as the person is qualified and providing a service that contributes to and facilitates functional equivalence. Theoretically, both deaf and hearing interpreters should be listed as qualified interpreters without the label of whether they are deaf or hearing. It would be invaluable for The Interstate TRS Fund Advisory Council to know the percentage of interpreters that are deaf and the percentage that are hearing. This type of data would give the Council members and NECA staff some measure of the quality of interpreting provided by each provider as well as whether there is a need for better standards for qualified interpreters.

The equalizer will be the provider balancing VRS operating costs by offering quality of service and meeting specific speed of answer requirements, especially after Sorenson unblocks access on their equipment to other VRS providers at the beginning of July 2006. Afterwards, the relay users will then be gravitating towards those providers they feel best meets their communication needs. FCC staffers are probably aware that there are many relay users with minimal language skills that use a combination of gestures, home signs, and even write in ASL that only a person who grew up with, as well as socialized with, these individuals would be able to understand as well as know how to frame corrective questions in the relay situation to elicit and thus facilitate more accurate and effective communication. Such a person should have

a position of authority and take corrective action to facilitate communication when alerted.

3. **Weighted average vs. average operating costs for reimbursement formula:** Until the VRS playing field is more level, it is our opinion that the use of the weighted average formula for reimbursement for VRS providers is inappropriate. The current VRS speed of answer is too slow. Those providers who meet minimum standards have lower operating costs than those who offer higher speed of answer. A large number of members of the deaf and hard of hearing community are not aware that the D-Link i2eye allows the user a choice of VRS providers while the VP-100 limits the user to access only the Sorenson VRS.

With restrictive equipment such as the VP- 100, a captive audience allows the provider to meet minimum standards, which then contributes to lowering the operating costs. VRS providers that offer considerably more than the FCC minimum standards, including a faster speed of answer, will require more interpreters that will then result in higher operating costs. With the D-Link i2eye, anecdotal experience shows that, with rare exception, providers of choice have responded in less than 30 seconds. Most of the elite members of the deaf and hard of hearing community are aware of the options available to them. We are concerned about the vast majority of the grassroots community who are not aware of the limits of the restrictive equipment, and they do not know how to or are apprehensive about filing complaints about limited access to the VRS with the FCC.

4. **Sharing of providers operating costs and percent market share:** See Jefferson's remark written at the third paragraph above. Unless we have access to all the information, the various representatives of the relay industry (telephone companies, relay providers, state regulatory commission representatives, and most important the users of the relay services) are limited in their ability to review, process, understand, and guide the decision makers and rate makers of some things to factor in. This observation is not new to FCC. One of the representatives of the TRS providers was quite vehement at the last Interstate TRS Fund Advisory Council meeting about not having enough information. We agree with her and want to see more openness of the data provided without the use of "proprietary" information as the reason for not doing so.

5. **The Value of The Interstate TRS Fund Advisory Council:**
An ongoing concern is whether the Interstate TRS Fund Advisory Council should continue to exist. Input was requested from a long time advocate for relay services and former director of TDI who worked closely with former FCC Chair Reed Hundt to establish regulations for relay services. Due to the foresight of these two men, the FCC's Disability Rights Office was established to ensure input from telecommunication users. Below is the advocate's response to my question regarding his knowledge and history pertaining to The Interstate TRS Fund Advisory Council role. He stated, "NECA's responsibility is to do the accounting and share the PRELIMINARY findings with the Interstate TRS Fund Advisory Council before submitting the RECOMMENDATIONS to the FCC on May 1st of each year...The Council's prime responsibility was to assist NECA develop TRS rates. Since its existence in 1993, Council members AND TRS-RELATED OBSERVERS had been using this Council as an educational tool to assist them to develop and maintain effective programs directly and indirectly." He added that, "before dissolving the Council to meet the "special needs" of the corporation's proprietary confidential rights, efforts should be made to maintain effective consumerism."

We believe that the consumers or the daily users of the relay system should be given a strong voice in NECA, and if not within NECA, then within the FCC an agency should be set up to preserve that voice. The industry's knowledge of the needs of the consumer pales in comparison to the consumer's knowledge and experience. One needs only to read The End of Detroit: How the Big Three Lost Their Grip on the American Car Market by Micheline Maynard (Hardcover - Sep 23, 2003) to appreciate how the Japanese auto industry increased market share while the Detroit auto industry lost market share. The Japanese industry studied and did in depth interviews and observations of the American automobile consumers to produce high quality automobiles to meet their various needs. The FCC should apply similar thinking in addressing the needs of the consumers of the relay services to ensure high quality and functional equivalence.

6. **The continuing need for interpreter training programs:** The establishment of the VRS call centers have created a nationwide drain of qualified interpreters in the communities and cities where the call centers are located. It is foreseen down the road that this drain will worsen with serious impact on the availability of qualified interpreters in educational, medical, legal, and community settings. While this may

not fall within the province of the FCC as an area of direct concern, we hope that the FCC would provide collaborative leadership and initiative in working with the Federal Department of Education and the Department of Labor in supporting, funding, sustaining, and encouraging established interpreter-training programs.

7. **The need to establish uniform interpreting standards:** The FCC implemented regulations to improve the quality of service and the functional equivalency for the traditional Telecommunications Relay Service (TRS, by regulations requiring that the Communications Assistants (CA) type at least 60 words per minute with certain error limits. Similar standards need to be established for interpreters regarding the accuracy of their sign language interpreting and voice reverse interpreting skills. Without established standards, there is a high risk of VRS providers hiring interpreters that are not effective at lower pay in order to increase the differential between the reimbursement rate and their operating costs. We have been receiving reports of ineffective interpreters working for VRS. The NAD Technology Committee (NAD TC), on which both of us serve, has received ongoing complaints about this problem, mostly from those least able to file complaints with FCC. With less than 10 percent of the deaf and hard of hearing population having videophones, it is expected that the demand for VRS will increase exponentially which will strain the ability of the providers to offer quality service. The National Association of the Deaf in conjunction with the Registry of Interpreters for the Deaf can be a resource in collaborating with the FCC in the establishment of VRS interpreter standards. We feel that these interpreting standards cannot be left to the VRS providers.
8. **Outreach of TRS/VRS:** As is acknowledged repeatedly, use of the VRS has exploded tremendously since the service was first initiated. However, with a small segment of the deaf and hard of hearing population estimated to be using the service, ongoing efforts must still be made to educate the hearing community about the Relay so that they do not hang up on Relay calls. It is distressing to note that even with the initial establishment of the TRS and now VRS, there are still a significant number of hang ups reported by deaf and hard of hearing consumers when they attempt to make calls in their communities. We request that outreach be funded so that the VRS providers are then empowered to educate the general community about the Relay in a positive manner.

In closing, as part of our responsibility to our representative constituency, we have had this letter reviewed by DHHCAN and the NAD for their suggestions and input.

Sincerely yours,

Lawrence J. Brick

Sheila Conlon-Mentkowski,

PS. We have read the letter about Video Relay Service Compensation Rates CG Docket No. 03-123letter to Ms. Monica Desai and are in complete agreement with it.